

REMARKS

Claims 1-16 and 19-20 are pending in the application. Claims 21 and 22 have been canceled. Favorable reconsideration of the application, as amended, is respectfully requested.

I. REJECTIONS OF CLAIMS 21 AND 22 UNDER 35 U.S.C. § 101

Claims 21 and 22 stand rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter. Claims 21 and 22 have been canceled without prejudice and the rejection is obviated thereby. However, Applicants reserve the right to prosecute the subject matter of the canceled claims in related applications.

II. REJECTIONS OF CLAIMS 1-16, AND 19-20 UNDER 35 U.S.C. §102(e)

Claims 1-16, and 19-20 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 5,903,567 ("Alger-Meunier"). These claims are believed to be allowable for at least the following reasons.

The inventions defined in independent claims 1, 11, 14, 19, and 20 relate to a non-conventional use of a field in each payload block of an HDSL frame format which is conventionally used for enabling a feature corresponding to T1 or E1. Specific embodiments of the invention use the field for transmitting a portion of the payload data.

By contrast, in the method described in Alger-Meunier, the Z bit field is not used for transmitting payload data. Rather, as the Alger-Meunier patent teaches throughout its description, the Z bit field is used in a conventional manner. Specifically, the field was conventionally used as an F bit in the T1 protocol, and as a Z bit in the E1 protocol. Alger-Meunier describes at, for example, column 4, lines 26-30 that the Z bit 24 is provided at the beginning of a block in order "to identify the beginning of a block," rather than transmitting a portion of the payload data as claimed. Nothing in Alger-Meunier teaches or suggests using a field for enabling a feature corresponding to T1 or E1 for transmitting a portion of the payload data. Rather, the 8 kb/s of data transmitted in the Z bit field is merely part of the conventional frame overhead as described in the "background of the invention" section of the present specification (see, top of page 2).

Alger-Meunier teaches no deviation from the above-mentioned conventional functionality of the Z bit. Rather, Alger-Meunier's primary objective rests on transmitting an increased amount of data by increasing the clock frequency of the clock means 12, and 12'. See, for example, column 4, lines 34-41 of Alger-Meunier. It is respectfully submitted that the Alger-Meunier system uses the Z bit 24 in a conventional manner. In fact, there is no suggestion in Alger-Meunier that the Z bit 24 is used to carry payload data. If the Examiner still believes that

the reference reasonably suggests use of the Z bit as claimed, Applicants respectfully request that the Examiner identify an exact location of relevant description so that Applicants can make a meaningful assessment of its impact on patentability.

For at least the reasons set forth above, Alger-Meunier cannot be said to anticipate one aspect of the invention, i.e., use of the field corresponding to the T1 or E1 feature for transmission of a portion of the payload data. In view of the foregoing, the inventions of independent claims 1, 11, 14, 19, and 20, and their dependent claims are believed to be patentable over the cited art. Withdrawal of the rejections is respectfully requested.

III. CONCLUSION

Applicants believe that all pending claims are in condition for allowance, and respectfully request a Notice of Allowance at an early date. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 510-843-6200.

Respectfully submitted,
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Limited Recognition under 37 CFR § 10.9(b)

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Expires: November 6, 2003



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